

NOTE: Appearing first is the Full Board summary which is the last meeting of the day. The committees will follow in the order of which time they were conducted. The Dealer Board staff felt it would benefit our readers to have the last meeting of the day appear first on the website.

~ 1ST DRAFT ~

Meeting Summary
Motor Vehicle Dealer Board
Monday, July 10, 2006

Chairman D.B. Smit called the Dealer Board meeting to order at 10:57 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 14 Board members present. Present were members Jonathan Blank, Carlton Courter, Lynn Hooper, Todd Hyman, David Lacy, Wanda Lewark, Chip Lindsay, Hugh McCreight, Thomas Moorehead, Pat Patrick, Frank Pohanka, Kevin Reilly and Vince Sheehy. (Absent: Jim Mercer, Larry Shelor, Jimmy Whitten, Robert Woodall and Thomas Woodson). Executive Director Bruce Gould, Peggy Bailey and Debbie Allison represented the Dealer Board. Jim Gurney and Don Boswell represented DMV. Eric Fiske represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

The May 8, 2005 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee:

- **Emad Alhusaini and Signature Auto Sales.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Emad Alhusaini and Signature Auto Sales. Based on that discussion, Mr. Patrick made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Mr. Emad Alhusaini t/a Signature Auto Sale for alleged violations of Va. Code §§46.2-1529 (Failure to maintain all dealer records on the premises of the licensed location), 46.2-1542 (Failure to deliver to DMV by the expiration of the first temporary certificate all necessary and required applications and fees) and 46.2-1575(2) (Failure to comply subsequent to receipt of a written warning from the Department or the Board/willful failure to comply). Based on due consideration, the Board believes a civil penalty should be assessed against Mr. Emad Alhusaini t/a Signature Auto Sale and; based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Alhusaini in running his dealership. The Board hereby assess a \$3,000 civil penalty against Mr. Emad Alhusaini and that the Board mandates that Mr. Emad Alhusaini successfully complete the dealer-operator course by January 18, 2007. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Emad Alhusaini by the Board until what time Mr. Emad Alhusaini has successfully completed the course.

David Lacy seconded. The motion carried unanimously.

- **Wayne Taber and Autostar Enterprises.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Wayne Taber and Autostar Enterprises. Based on that discussion, Mr. Patrick made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Mr. Wayne Taber t/a Autostar Enterprises for alleged violations of Va. Code §§46.2-1548 (Failure to keep a written record of dealer license plates and have them available for inspection), 46.2-1550 (Failure to properly limit the use of dealer license plates on vehicles in the dealer's inventory to dealers, their spouses, licensed salespersons and employees of the dealership) and 46.2-1575(12) (Leasing, renting, lending or otherwise allowing use of a dealer's license plate by persons not specifically authorized under state law). Based on due consideration, the Board believes a civil penalty should be assessed against Wayne Taber t/a Autostar Enterprises. The Board hereby assess a \$2,200 civil penalty against Mr. Wayne Taber.

Todd Hyman seconded. The motion carried unanimously.

- **Navraj Gupta and Fredericksburg Public Auto Auction.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Navraj Gupta and Fredericksburg Public Auto Auction. Based on that discussion, Mr. Patrick made the following motion: Based on the evidence and a report of an informal fact-finding conference as prepared by a hearing officer, the executive director, under the authority granted by the Motor Vehicle Dealer Board, revoked all licenses issued by the Board to Mr. Navraj Gupta t/a Fredericksburg Public Auto Auction for alleged violations of Va. Code §§46.2-1575(9) (Having been convicted of any criminal act involving the business of selling vehicles) and 46.2-1575(13) (Having been convicted of a felony). Mr. Gupta appealed the revocation and requested a formal hearing. The Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Mr. Navraj Gupta t/a Fredericksburg Public Auto Auction for alleged violations of Va. Code §§46.2-1575(9) (Having been convicted of any criminal act involving the business of selling vehicles) and 46.2-1575(13) (Having been convicted of a felony). Based on due consideration, the Board believes that all licenses and certificates issued by the Board to Mr. Navraj Gupta should be revoked. The Board hereby revokes all licenses and certificates issued by the Board to Mr. Navraj Gupta.

Kevin Reilly seconded. The motion carried unanimously.

Licensing Committee

Chairman Todd Hyman summarized discussions held and actions that were taken during the Committee Meeting.

- **Harold J. Crabtree and Pioneer Chevrolet, Inc.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Harold J. Crabtree and Pioneer Chevrolet, Inc. Based on that discussion, Mr. Hyman made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Mr. Harold J. Crabtree t/a Pioneer Chevrolet, Inc. for alleged violations of Va. Code §46.2-1537, allowing an unlicensed individual to solicit the sale of motor vehicles and compensating an individual, who is not licensed by the dealership, in the connection of the sale of a motor vehicle. Based on due consideration, the Board believes a civil penalty should be levied against Mr. Harold J. Crabtree t/a Pioneer Chevrolet, Inc. The Board hereby assess a civil penalty in the amount of \$2,800 on Mr. Harold J. Crabtree and Pioneer Chevrolet, Inc. for violations of Va. Code §46.2-1537 prohibiting dealers from paying a commission or compensating any person in connection with the sale of a motor vehicle, unless the person is licensed as a salesperson and employed by the dealer.

Pat Patrick seconded. The motion carried unanimously.

- **Jacques J. Moore and Moore Cadillac Company.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Jacques J. Moore and Moore Cadillac Company. Based on that discussion, Mr. Hyman made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Mr. Jacques J. Moore t/a Moore Cadillac Company for alleged violations of Va. Code §46.2-1537, allowing an unlicensed individual to solicit the sale of motor vehicles and compensating an individual, who is not licensed by the dealership, in the connection of the sale of a motor vehicle. Based on due consideration, the Board believes a civil penalty should be levied against Mr. Jacques J. Moore t/a Moore Cadillac Company. The Board hereby assess a civil penalty in the amount of \$5,075 on Mr. Jacques J. Moore and Moore Cadillac Company for two hundred and three violations of Va. Code §46.2-1537 prohibiting dealers from paying a commission or compensating any person in connection with the sale of a motor vehicle, unless the person is licensed as a salesperson and employed by the dealer.

Jonathan Blank seconded. Chip Lindsay abstained for direct competitor reasons. The motion carried.

- **Steven L. Pullman, Sales.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Steven L. Pullman, Salesperson. Based on that discussion, Mr. Hyman made the following motion: Based on the evidence and a report of an informal fact-finding conference as prepared by a hearing officer, the executive director, under the authority granted by the Motor Vehicle Dealer Board, denied issuance of a salesperson's license to Mr. Steven L. Pullman pursuant to Va. Code §46.2-1575 (13), having been convicted of a felony and Mr. Pullman appealed the denial and requested a formal hearing. The Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Mr. Steven L. Pullman and based on due consideration, the Board believes that Mr. Pullman's application for a motor vehicle salesperson's license should be denied. The Board hereby denies the issuance of a salesperson's license to Mr. Steven L. Pullman.

Kevin Reilly seconded. The motion carried unanimously.

Advertising Committee

Chairman Frank Pohanka summarized discussions that were held during the Committee Meeting.

Transaction Recovery Fund Committee:

Chairman David Lacy summarized discussions held and actions that were taken during the Committee Meeting. He noted that the Executive Director will be scheduling a special Committee Meeting to discuss a legislative proposal. Please note there were no claims for the July Board meeting.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

The next meeting will be scheduled for September 11, 2006

- **2007 Legislative Concepts:** D.B. Smit indicated that there were no suggestions at this time.

- **Executive Director's Report.** Bruce Gould indicated that the Dealer Operator course is still going strong and classes are being added to the schedule on a regular basis to cover the demand. On July 1, the new definition of a salesperson, which includes F&I personnel, went into effect.

NEW BUSINESS FROM THE FLOOR

- D. B. Smit announced that on July 14, 2006 a hearing will be conducted at the DMV Franconia Customer Service Center at 9:00 a.m. Ford Motor Company has requested a hearing. They are operating a dealership in Northern Virginia and they've asked to continue to operate that dealership. Any dealer can attend.
- **Curbstoning Report.** Don Boswell, Chief of Investigations for DMV, gave a brief update on ISO investigations relating to curbstoning since the May Board meeting.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Smit adjourned the meeting at 11:19 a.m.

Meeting Summary
Dealer Practices Committee
Monday, July 10, 2006

Chairman Pat Patrick called the Dealer Practices Committee meeting to order at 8:33 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members Jonathan Blank, Lynn Hooper, David Lacy, Hugh McCreight, Thomas Moorehead, Frank Pohanka and Kevin Reilly, (Absent: Jim Mercer, Jimmy Whitten and Robert Woodall) Board members present: D.B. Smit, Todd Hyman, Chip Lindsay, Vince Sheehy and Wanda Lewark. Executive Director Bruce Gould, Peggy Bailey and Debbie Allison represented the Dealer Board. Eric Fiske was present from the Attorney General's Office.

The May 8, 2006 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

Update: May Actions. Peggy Bailey reported on the actions taken at the Dealer Practices Committee meeting on May 8, 2006.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference:

- **Emad Alhusaini and Signature Auto Sale.** On March 29, 2006, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1529 (Failure to maintain all dealer records on the premises of the licensed location), 46.2-1542 (Failure to deliver to DMV by the expiration of the first temporary certificate all necessary and required applications and fees) and 46.2-1575(2) (Failure to comply subsequent to receipt of a written warning from the Department or the Board). Based on the information provided at the conference, the hearing officer recommended that a follow-up inspection be made to ensure all rules and regulations are being followed, the authority to issue temporary license plates by Signature Auto Sale be suspended for a period of ninety days, and will only be reinstated upon passing the follow-up inspection and a civil penalty of \$500 be assessed against Emad Alhusaini and Signature Auto Sale. It was noted that the Board does not have the authority to suspend license plate privileges. This authority belongs to DMV. DMV Commissioner Smit stated that DV would investigate further.

Motion was made by David Lacy to modify the hearing officer's recommendation and assess a \$3,000 civil penalty (\$1,000 per violation) and to successfully complete the Dealer Operator course within a 6 month period. Thomas Moorehead seconded. Rationale for modifying the hearing officer's recommendation was that the violations were serious and on-going. The motion carried unanimously.

- **Wayne Taber and Autostar Enterprises.** On May 24, 2006, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1548 (Failure to keep a written record of dealer license plates and have them available for inspection), 46.2-1550 (Failure to properly limit the use of dealer license plates on vehicles in the dealer's inventory to dealers, their spouses, licensed salespersons and employees of the dealership) and 46.2-1575(12) (Leasing, renting, lending or otherwise allowing use of a dealer's license plate by persons not specifically authorized under this title). Based on the information provided at the conference, the hearing officer recommended that for the violation of §46.2-1548, a civil penalty of \$200 be assessed and for the violation of §§46.2-1550 and 1575(12), a civil penalty of \$500 be assessed for a total civil penalty of \$700.00 against Wayne Taber and Autostar Enterprises.

Motion was made by Kevin Reilly to partially modify the hearing officer's recommendation and assess a \$2,200 civil penalty (keep the \$200 for the violation of §46.2-1548 and \$2,000 for §§46.2-1550 and 1575[12]). Mr. Reilly indicated that the violations were egregious and done willfully in that the dealer should know that he may not rent tags and the maximum civil penalty should be assessed. Jonathan Blank seconded. The motion carried unanimously.

Review and Action: Formal Hearing:

- **Navraj Gupta and Fredericksburg Public Auto Auction.** On January 9, 2006, an informal fact-finding conference was conducted to address the alleged violations of VA Code 46.2-1575(9) (Having been convicted of any criminal act involving the business of selling vehicles) and 46.2-1575(13) (Having been convicted of a felony). Based on the information provided at the conference, the hearing officer recommended that Mr. Gupta's dealer license be revoked. Mr. Gupta appealed this decision on April 3, 2006. On May 25, 2006, a formal hearing was conducted and based on the information provided at the hearing, the hearing officer recommended that Mr. Gupta's dealer license be revoked. Also, the hearing officer noted that on April 19, 2006, an application was submitted changing the business name from Auto City Inc. (Corporate name for Fredericksburg Public Auto Auction) to Super Wheels, Inc. with Sumiti Bala Gupta noted as the Dealer-Operator. He recommends that a close watch be placed on this dealership as a means to protect the public's interest, because of Mr. Gupta's involvement in this business. If not already done, the hearing officer recommends that Sumiti Bala Gupta be required to attend the Dealer-Operator Certification Course.

Mr. Gupta was present on his own behalf and available to answer questions from the Committee. General discussion followed.

Motion was made by Frank Pohanka to modify the hearing officer's recommendation to revoke all of Mr. Gupta's licenses, not just the dealer's license. David Lacy seconded. The motion carried unanimously.

- **2007 Legislative Concepts:** Bruce indicated that it is time again for agenda items for the upcoming 2007 Legislation Session. Should any member have any recommendations, please contact him.
- **Dealer Tags for Personal Use.** Lynn Hooper indicated that a dealer was stopped by a state trooper and was ticketed for using a dealer tag for personal use. There was general discussion concerning how vague the law was on this issue. One suggestion was that legislation be created to clarify the usage of the dealer tag. Eric Fiske suggested that the Committee wait until the court date of the ticket to see what the judge says. Consensus of the Committee is to wait until the September meeting to discuss this issue further.
- **Report on Variance Requests (Dealer Hours and Storage of Dealer Records).** Bruce Gould reported that there were 8 variances for records and 2 two for on-line. All had good standings with Board, so all were approved.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for September 11, 2006.

The meeting adjourned at 9:26 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, July 10, 2006

Chairman Todd Hyman called the Dealer Licensing Committee meeting to order at 9:30 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Wanda Lewark, Chip Lindsay, Kevin Reilly and Vince Sheehy. (Absent: Robert Woodall, Larry Shelor, Jimmy Whitten and Thomas Woodson) Other Board members present: D.B. Smit, Lynn Hooper, David Lacy, Frank Pohanka, Pat Patrick, Jonathan Blank. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison represented the Dealer Board. Don Boswell represented DMV. Eric Fiske represented the Attorney General's Office.

The May 8, 2006 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

OLD BUSINESS

Update: May Actions. Peggy Bailey reported on the actions taken at the Licensing Committee meeting on May 8, 2006.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference:

- **Harold J. Crabtree and Pioneer Chevrolet, Inc.** On February 23, 2006, an informal fact-finding conference was conducted to address the alleged violation of Va. Code §46.2-1508 (allowing an unlicensed individual to sell vehicles for his dealership without a license) against Harold J. Crabtree and Pioneer Chevrolet, Inc. Based on the information provided at the conference, the hearing officer recommended that a civil penalty of \$600 be assessed against Harold J. Crabtree and Pioneer Chevrolet, Inc.

Motion was made by Vince Sheehy to modify the hearing officer's recommendation to assess a civil penalty of \$2,800 (\$200 before the denial letter and \$2,600 after the denial letter). Mr. Sheehy felt that the dealership failed to acknowledge the denial letter and continued to allow the unlicensed salesperson to sell vehicles. Kevin Reilly seconded. The motion carried unanimously.

- **Jacques J. Moore and Moore Cadillac Company.** On June 15, 2006, an informal fact-finding conference was conducted to address the alleged violation of Va. Code §46.2-1537 (It shall be unlawful for any motor vehicle dealer or salesperson licensed under this chapter, directly or indirectly, to solicit the sale of a motor vehicle through a pecuniarily interested person, or to pay, or cause to be paid, any commission or compensation in any form whatsoever to any person in connection with the sale of a motor vehicle, unless the person is duly licensed as a salesperson employed by the dealer) against Jacques J. Moore and Moore Cadillac Company. Based on the information provided at the

conference, the hearing officer recommended that a civil penalty of \$25 per each of the 203 violations be assessed for a total civil penalty of \$5,075.

Mr. Bob Hughes, General Manager and Ms. Debbie Wareham, Chief Financial Officer, spoke on behalf of Mr. Moore and Moore Cadillac Company and were available for questions from the Committee.

Motion was made by Vince Sheehy to accept the hearing officer's recommendation. Kevin Reilly seconded. Chip Lindsay abstained from the motion due to Moore Cadillac being a direct competitor. This reduces the full quorum to less than half, therefore a vote cannot be made. This issue will be voted on in Full Board.

Review and Action: Formal Hearing:

- **Steven L. Pullman, Salesman.** On December 7, 2005, an informal fact-finding conference was conducted to address the alleged violation of Va. Code §46.2-1575(13) (Having been convicted of a felony) against Steven L. Pullman. Based on the information provided at the conference, the hearing officer recommended that Mr. Pullman be denied a salespersons license. On April 24, 2006, Mr. Pullman appealed the decision. On May 31, 2006, a formal hearing was conducted and based on the information provided at the hearing, the hearing officer recommended that Mr. Pullman be denied a salespersons license.

Motion was made by Kevin Reilly to accept the hearing officer's recommendation. Vince Sheehy seconded. The motion carried unanimously.

- **2007 Legislative Concepts:** As stated in Dealer Practices, Mr. Gould extended the invitation for the Committee to submit agendas for the 2007 Legislation Session.

The next meeting was scheduled for September 11, 2006.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 10:12 a.m.

Meeting Summary
Advertising Committee
Monday, July 10, 2006

Chairman Frank Pohanka called the Advertising Committee meeting to order at 10:13 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Jonathan Blank, Chip Lindsay, Hugh McCreight, Thomas Moorehead and Pat Patrick. (Absent: James Mercer and Larry Shelor). Other Board members present: D.B. Smit, Kevin Reilly, Lynn Hooper, Todd Hyman, David Lacy, Wanda Lewark, Vince Sheehy. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison represented the Dealer Board. Don Boswell represented DMV. Eric Fiske represented the Attorney General's Office.

The May 8, 2006 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

- **2007 Legislative Concepts:** Bruce extended the invitation for the Committee members to submit agendas for the 2007 Legislation Session.

The next meeting will be September 11, 2006.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 10:14 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, July 10, 2006

Chairman David Lacy called the Transaction Recovery Fund Committee meeting to order at 10:15 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Jonathan Blank, Lynn Hooper, David Lacy, Wanda Lewark, Vince Sheehy and Tommy Woodson. (Absent: Larry Shelor and Thomas Woodson). Other Board members present: D.B. Smit, Carlton Courter, Kevin Reilly, Todd Hyman, Frank Pohanka, Pat Patrick, Thomas Moorehead and Hugh McCreight. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison represented the Dealer Board. Don Boswell represented DMV. Eric Fiske represented the Attorney General's Office.

The May 8, 2006 summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference Results:

There were no claims for the July Board Meeting.

- **2007 Legislative Concepts:** Bruce Gould extended the invitation to the Committee members for suggestions for agenda items for the 2007 Legislation Session.
- **Attending Judgment Hearings and Caps on Attorney Fees Legislation Suggestion:** David Lacy indicated that at the last Committee meeting someone suggested that a representative of the Board should be in attendance in the judgment hearings. Mike Charapp, representing VADA, suggested that legislation be introduced to change the statute to provide that if there is a default judgment or a consent judgment that the Board could request to reopen the matter or challenge the award. While the Board has the authority to intervene in court, it is rare that they do. Eric Fiske indicated that each claim is carefully reviewed to determine if the Board has reason to intervene. Jonathan Blank questioned whether or not attorney fees can be challenged. Eric Fiske indicated that it's very difficult, particularly in Federal Court, to win those challenges. Eric suggested that the Board seek legislative approval to require claimants to make a good faith effort to collect from the debtor before filing a claim with the Board. This is similar to the two other Recovery Funds. Bruce Gould indicated that he was going to discuss two legislative concepts. One being to put a cap on attorney fees and the other is when the Fund reaches a certain amount, which has not been determined, and anything over that amount would be placed into the Board's special operating fund. It was the consensus of the Committee to hold a special Transaction Recovery Fund meeting to discuss various legislative options.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for September 11, 2006.

The meeting adjourned at 10:47 a.m.